

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

GIORGIO QUINIONES,

No. 2:21-cv-01612-MCE-JDP

Plaintiff,

v.

**MEMORANDUM AND ORDER**

LG CHEM, LTD.,

Defendant.

Plaintiff Giorgio Quiniones ("Plaintiff") seeks to recover from LG Chem, Ltd., ("Defendant") for injuries sustained when his electronic cigarette "mod" device, in which he allegedly used a "LG lithium-ion 18650 battery" manufactured by Defendant, ignited next to him while he was sleeping in bed. The Court previously granted with leave to amend a motion to dismiss for lack of personal jurisdiction filed by Defendant. ECF No. 29. Plaintiff thereafter filed a First Amended Complaint ("FAC"). ECF No. 37. Presently before the Court is Defendant's renewed Motion to Dismiss also brought pursuant to Federal Rule of Civil Procedure 12(b)(2). ECF No. 38. For the following reasons that Motion is GRANTED without leave to amend.<sup>1</sup>

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<sup>1</sup> Because oral argument would not be of material assistance, the Court ordered this matter submitted on the briefs. See E.D. Cal. Local R. 230(g).

## STANDARD

A judgment rendered in violation of due process is void, and due process requires that a defendant be subject to the personal jurisdiction of the court. World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 291 (1980) (citing Pennoyer v. Neff, 95 U.S. 714, 732–33 (1877); Int'l Shoe Co. v. Wash., 326 U.S. 310 (1945)). In opposing a defendant's motion to dismiss for lack of personal jurisdiction, the plaintiff bears the burden of establishing the court's jurisdiction over the defendant. Wash. Shoe Co. v. A-Z Sporting Goods Inc., 704 F.3d 668, 671 (9th Cir. 2012) (citation omitted). However, when the defendant's motion is based on written materials rather than an evidentiary hearing, the plaintiff need only make a “prima facie showing of jurisdictional facts” to withstand the motion to dismiss. Id. at 672 (citing Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1154 (9th Cir. 2006)). The court resolves all disputed facts in favor of the plaintiff. Wash. Shoe, 704 F.3d at 672.

15 Where, as here, there is no federal statute authorizing personal jurisdiction, the  
16 district court applies the law of the state in which the district court sits. Mavrix Photo,  
17 Inc. v. Brand Techs., Inc., 647 F.3d 1218, 1223 (9th Cir. 2011). California Code of Civil  
18 Procedure section 410.10, California’s long-arm statute, is “coextensive” with federal due  
19 process requirements. Id. Accordingly, the “jurisdictional analyses under state law and

20 federal due process are the same.” Id.

21 There are two categories of personal jurisdiction from a due process perspective:  
22 general and specific. A court has general jurisdiction over a nonresident defendant  
23 when the defendant's contacts with the forum are "substantial" or "continuous and  
24 systematic." Bancroft & Masters, Inc. v. Augusta Nat. Inc., 223 F.3d 1082, 1086 (9th Cir.  
25 2000). The standard for establishing general jurisdiction is an exacting standard that  
26 requires the defendant's contacts to approximate physical presence in the forum state.  
27 Schwarzenegger v. Fred Martin Motor Co., 374 F.3d 797, 801 (9th Cir. 2004). Specific  
28 personal jurisdiction, on the other hand, exists when a defendant's "in-state activity is

1 continuous and systematic and that activity gave rise to the episode-in-suit.” Goodyear  
2 Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915, 923 (2011) (citing Int’l Shoe,  
3 326 U.S. 317 (1945)) (internal quotation marks omitted). However, “the commission of  
4 certain ‘single or occasional acts’ in a State may be sufficient to render a [defendant]  
5 answerable in that State with respect to those acts . . . .” Id. (citation omitted).

6 The Ninth Circuit employs a three-part test to determine whether a non-resident  
7 has sufficient minimum contacts to be subject to specific personal jurisdiction: i) the non-  
8 resident defendant must purposefully direct his activities or consummate some  
9 transaction with the forum or resident thereof; or perform some act by which he  
10 purposefully avails himself of the privilege of conducting activities in the forum, thereby  
11 invoking the benefits and protections of its law; ii) the claim must be one which arises out  
12 of or relates to the defendant’s forum-related activities; and iii) the exercise of jurisdiction  
13 must comport with fair play and substantial justice, i.e., it must be reasonable. Wash.  
14 Shoe, 704 F.3d at 672. If the plaintiff satisfies the first two elements, the burden shifts to  
15 the defendant to present a “compelling case” that the exercise of jurisdiction would not  
16 be reasonable. Burger King Corp. v. Rudzewicz, 471 U.S. 462 (1985).

17 A court granting a motion to dismiss a complaint must then decide whether to  
18 grant leave to amend. Leave to amend should be “freely given” where there is no  
19 “undue delay, bad faith or dilatory motive on the part of the movant, . . . undue prejudice  
20 to the opposing party by virtue of allowance of the amendment, [or] futility of [the]  
21 amendment . . . .” Foman v. Davis, 371 U.S. 178, 182 (1962); Eminence Capital, LLC v.  
22 Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003) (listing the Foman factors as those to  
23 be considered when deciding whether to grant leave to amend). Not all of these factors  
24 merit equal weight. Rather, “the consideration of prejudice to the opposing party . . .  
25 carries the greatest weight.” Id. (citing DCD Programs, Ltd. v. Leighton, 833 F.2d 183,  
26 185 (9th Cir. 1987)). Dismissal without leave to amend is proper only if it is clear that  
27 “the complaint could not be saved by any amendment.” Intri-Plex Techs., Inc. v. Crest  
28 Group, Inc., 499 F.3d 1048, 1056 (9th Cir. 2007) (citing In re Daou Sys., Inc., 411 F.3d

1 1006, 1013 (9th Cir. 2005); Ascon Props., Inc. v. Mobil Oil Co., 866 F.2d 1149, 1160 (9th  
2 Cir. 1989) (“Leave need not be granted where the amendment of the complaint . . .  
3 constitutes an exercise in futility . . .”)).

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## 5 ANALYSIS

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7 The Court previously determined personal jurisdiction was lacking over  
8 Defendant:

9 The Court joins those courts that have concluded personal  
10 jurisdiction is lacking. See, e.g., LG Chem LTD. v. Superior  
Ct. of San Diego Cnty., 80 Cal. App. 5th 348 (4th Dist. 2022);  
11 Macias v. LG Chem, Ltd., No. SA CV 20-02416, 2021 WL  
2953162 (C.D. Cal. May 7, 2021); Payrovi v. LG Chem Am.,  
12 Inc., 491 F. Supp. 3d 597 (N.D. Cal. 2020). The Court need  
not decide whether Defendant purposefully availed itself of the  
13 privileges of doing business in this forum because, regardless,  
Plaintiff’s injuries did not arise out of Defendant’s forum-related  
activities. See Macias, 2021 WL 2953162, at \*4 (materially  
14 identical claims did not arise under Defendant’s forum-related  
activities in California when, among other things, Defendant  
15 did not design, advertise, or sell its batteries to individual  
consumers).

16 ECF No. 29 at 5. Plaintiff has not added any new allegations in the FAC or produced  
17 any new evidence sufficient to change the Court’s conclusion. In fact, Plaintiff did not  
18 address the Court’s prior ruling in his Opposition at all. Accordingly, the Court hereby  
19 incorporates its prior order by reference as equally applicable here and again holds  
20 personal jurisdiction over Defendant is lacking. See also Yamashita v. LG Chem, Ltd.,  
21 62 F.4th 496 (9th Cir. 2023) (upholding the district court’s dismissal for lack of personal  
jurisdiction as to this same Defendant, who “ha[d] various forum contacts, but does not  
22 sell the allegedly defective product as a stand-alone product to in-state consumers”). In  
addition, because “[j]urisdictional discovery would be little more than a fishing expedition  
23 seeking support for jurisdictional theories,” the Court also again denies Plaintiff’s request  
24 for such discovery. Id.

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## CONCLUSION

For the reasons set forth above, Defendant's Motion to Dismiss (ECF No. 38) is GRANTED without leave to amend. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: April 27, 2023

  
MORRISON C. ENGLAND, JR.  
SENIOR UNITED STATES DISTRICT JUDGE